

Remarks

Claims 1-36, 56, 58-80, 97, 101, 108, 120 and 121 are pending in the application.

35 USC § 103 Rejections

I. Claims 1-9, 11-16, 18, 21-26, 38-34, 56, 58-80 and 97 were rejected under 35 USC §103(a) as being unpatentable over Gudmundsson, et al. (WO 03/076441).

Applicant acknowledges that Gudmundsson may be used as a reference for the establishment of the state of the art at the time of the invention. The Examiner correctly points out that the Gudmundsson reference provides evidence that another was aware that pyrazolotriazine compounds are useful for treating herpes viral infections (emphasis added). However, unlike the Gudmundsson compounds, the compounds of the present invention are CB-1 receptor antagonists which is a non-analogous use. The presumption of obviousness based on a reference disclosing structurally similar compounds (e.g., positional isomers) may be overcome where there is evidence showing there is no reasonable expectation of similar properties in structurally similar compounds. *In re May*, 574 F.2d 1082, 197 USPQ 601 (CCPA 1978). Homology should not be automatically equated with *prima facie* obviousness because the claimed invention and the prior art must each be viewed "as a whole." *In re Langer*, 465 F.2d 896, 175 USPQ 169 (CCPA 1972). Clearly, compounds used in the prophylaxis or treatment of a herpes viral infection do not possess the same or similar properties of compounds which act as CB-1 receptor antagonists. Examiner has provided no additional evidence that would show a reasonable expectation that pyrazolotriazine derivatives would be useful for treating diseases modulated by the antagonism of the CB-1 receptor and therefore has provided no evidence that Applicant would have been motivated to make the asserted changes to the Gudmundsson compounds in the design of CB-1 antagonists.

Based on the arguments presented above, Applicant respectfully submits that Claims 1-36, 56, 58-80, 97, 101, 108, 120 and 121 are in condition for allowance.

Respectfully Submitted:

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